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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,339	07/10/2000	Nobuyoshi Morimoto	5596-00300	9759

7590 04/25/2006

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EXAMINER

ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/613,339

Applicant(s)

MORIMOTO, NOBUYOSHI

Examiner

Pierre E. Elisca

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to Applicant's Pre-Brief conference filed on 11/03/2005. The Examiner has made an updated search and found new prior art (Schmid US 2002/0029188 A1).

2. Claims 1-44 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3-7, 9-31, 32-35 and 37-44-44 are rejected under 35 U.S.C. 102 (e) as being anticipated by Schmid US 2002/0029188 A1 with a non-provisional of provisional application No. 60/172,736, filed on 12/20/1999.

As per claims 1, 3-7, 9-31, 32-35 and 37-44-44 1, 3-7, 9-31, 32-35 and 37-44-44 Schmid discloses a computerized system for negotiating loans on behalf of a borrower collects data on a desired loan transaction in electronic form. The system electronically notifies a plurality of lenders of the requested loan transaction and invites

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each lender to electronically submit a corresponding quote. Each lender is also provided with options to improve their corresponding quote (which is readable as Applicant's claimed invention wherein it is stated that a method for negotiating improved terms for a product or service), comprising:

Detecting an issuance of a commitment to purchase with associated terms for said product or service being purchased by a purchaser using an Internet web site, in response to said detecting, making an offer to said purchaser to accept or reject a contract for negotiating said improved terms within a specified time, if said purchaser accepts said offer, conducting a search for said improved terms (specifically wherein said each lender is also provided with options to improve their corresponding quote, abstract) within said specified time, receiving said improved terms within said specified time, and executing said contract (see., abstract, page 1, [0008], [0014], page 2, [0017], page 3, [0024]-[0031]).

Furthermore this process is also readable as LENDINGTREE.com.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 8, 31 and 36 are rejected under 35 U.S.C 103 (a) as being unpatentable over Schmid in view of Andrews (U.S. Pat. No. 6,285,986).

As per claims 2, 8, 31 and 36 Schmid discloses the claimed method as stated in claim 1 above. Schmid fails to explicitly disclose the step of detecting comprises detecting said purchaser entering a credit card number or a pre-paid account number or a gift certificate number. However, Andrews discloses a method of payment and shipping information (see., col 2, lines 37-48).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Schmid by including the limitation detailed above as taught by Andrews since the form of payment information can also include payment by credit card or gift certificate or account number.

RESPONSE TO ARGUMENTS

7. Applicant's arguments filed on 11/03/2005 have been fully considered but they are moot in view of new ground (s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

Primary Patent Examiner

April 18, 2006